

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

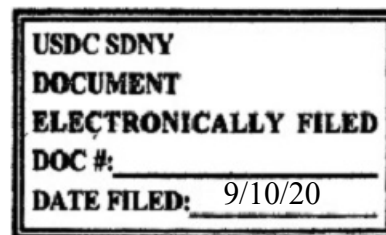
EFCG, INC.,

Plaintiff,

-against-

AEC ADVISORS, LLC, et al.,

Defendants.



19-CV-8076 (RA) (BCM)

**ORDER**

**BARBARA MOSES, United States Magistrate Judge.**

In its letter of today's date (Dkt. No. 132), EFCG mischaracterizes this Court's most recent Order, issued yesterday (Dkt. No. 130), as well as its own underlying letter-motion filed on August 28, 2020 (Dkt. No. 120.)

In this action, EFCG has never moved to quash or for a protective order as to the Zofnass deposition. Nor, for that matter, have defendants presented this Court with a deposition notice for Zofnass or moved to compel his attendance. Rather, on August 28, EFCG asked for an order requiring defendants to "conduct depositions" of other witnesses notwithstanding its refusal to produce Zofnass, whom it characterized as a "non-party." Consequently, yesterday's Order directed EFCG to (a) meet and confer in good faith with defendants in an effort to resolve or narrow the parties' disputes, and then (b) submit a reply letter-brief, on September 14, 2020, as to the letter-motion it actually made. The Order further directed EFCG that *if* there is a claim that Zofnass's health precludes his deposition, that claim "must be made by the witness himself and must be supported by admissible medical evidence." Order at 2.

This Court did not direct EFCG to submit, by September 14, 2020, "appropriate medical evidence in support of its pending August 28, 2020 letter motion on the Zofnass deposition issue." Nor did this Court schedule a hearing for September 17, 2020 (or on any other date) on "the Zofnass issue." The proceeding now scheduled for September 17 is a discovery conference as to whatever issues remain for decision after the parties have met and conferred concerning EFCG's August 28 letter-motion and defendants' September 4, 2020 letter-motion (Dkt. No. 123), which concerns the TOPIT subpoena.

It is increasingly apparent, however, that there is substantial overlap between the parties' discovery disputes in this Court and in New York State Court, and that at least some of those issues have already been resolved – or will likely be promptly resolved – in state court. Given these developments, it is hereby **ORDERED** that the due date for the parties' reply letter-briefs in this Court is **EXTENDED to September 18, 2020** (by which time EFCG will either have moved for a protective order in state court as to the Zofnass deposition or waived its claim that he is unable to testify). The discovery conference before this Court, now scheduled for September 17, 2020, will instead take place on **September 22, 2020, at 10:00 a.m.**, by videoconference. Chambers will email the link to counsel; the publicly accessible audio line remains the same: (917) 933-2166 and access code 873886130.

In their reply letter-briefs and at the conference, the parties should be prepared to update the Court as to what issues, if any, remain for decision by this Court.

Dated: New York, New York  
September 10, 2020

**SO ORDERED.**

A handwritten signature in blue ink, appearing to read "Barbara Moses", is written over a horizontal line.

**BARBARA MOSES**  
**United States Magistrate Judge**